

1 out page 4, if you know?

2 WITNESS: I believe the person that filled out page
3 4 was the same person that did the interviews and -- for the
4 position, Angela Burger.

5 JUDGE STEINBERG: Okay. Now, Mr. Honig?

6 RECROSS-EXAMINATION

7 BY MR. HONIG:

8 Q And the position you're speaking of is the reception
9 and maintenance jobs for January 17, 1990?

10 A That's correct.

11 Q And there are no forms that you're aware of for any
12 other positions besides the January 17, 1990, that, that lists
13 Kathy Woodard, isn't that right?

14 A Not that I'm aware of, that's correct.

15 MR. HONIG: No further questions.

16 JUDGE STEINBERG: Mr. Zauner?

17 MR. ZAUNER: No further questions.

18 JUDGE STEINBERG: Mrs. Schmeltzer?

19 MS. SCHMELTZER: No further questions.

20 JUDGE STEINBERG: Mr. Stortz, you're excused. Thank
21 you very much for staying. We appreciate the information.
22 Have a, have a good flight back.

23 MR. STORTZ: Thank you.

24 JUDGE STEINBERG: Okay. Now, have we completed --

25 MS. SCHMELTZER: We do have -- can I --

1 JUDGE STEINBERG: No, I know you've got two more
2 exhibits.
3 MS. SCHMELTZER: Right.
4 JUDGE STEINBERG: Have we completed the live witness
5 --
6 MS. SCHMELTZER: Yes, we have.
7 JUDGE STEINBERG: Okay. So, now we get the dead
8 witnesses?
9 MS. SCHMELTZER: That's right.
10 JUDGE STEINBERG: Okay. Just like --
11 MS. SCHMELTZER: No, that's not correct.
12 JUDGE STEINBERG: -- in Chicago we've taken a -- we
13 get the dead votes now. Okay. Is there any reason not to
14 lift the sequestration order?
15 MS. SCHMELTZER: No.
16 JUDGE STEINBERG: Okay. The --
17 MR. HONIG: Only in -- but, Your Honor, it may be
18 that in, in -- as to one of these dead witnesses that you may
19 want to ask some questions of a live witness, so can we wait
20 about two or three minutes before lifting --
21 JUDGE STEINBERG: Well, you're going now, aren't
22 you?
23 MR. STORTZ: I'd like to.
24 JUDGE STEINBERG: Can he go now?
25 MS. SCHMELTZER: Yes.

1 JUDGE STEINBERG: Take off. Don't talk to anybody
2 until you get back to St. Louis. That'll cover it. Okay.
3 The sequestration order is lifted for all witnesses.

4 MR. STORTZ: Okay. Thank you.

5 MS. SCHMELTZER: Can we just say --

6 JUDGE STEINBERG: Yeah.

7 MS. SCHMELTZER: -- good-bye to Mr. --

8 JUDGE STEINBERG: Yeah. You're excused. We'll take
9 -- we'll go off the record.

10 (Off the record.)

11 (On the record.)

12 JUDGE STEINBERG: Okay. We're back on the record.

13 Mrs. Schmeltzer?

14 MS. SCHMELTZER: Yes. Can I just have them both
15 identified first? I'd like to first have marked for identifi-
16 cation as Church Exhibit 12 a document of 60 pages. This is a
17 document from the Commission's records. It's in re applica-
18 tions for renewal of license of the following Missouri radio
19 stations: one is KFYO-AM/FM and the other one that's germane
20 to this action is KRJY-FM St. Louis. This is in Opposition to
21 Petition to Deny and Response to Request for Information that
22 was filed by the licensee of KRJY-FM.

23 JUDGE STEINBERG: The, the document described will
24 be marked for identification as Church Exhibit 12.

25 (Whereupon, the document referred to

1 as Church Exhibit No. 12 was marked
2 for identification.)

3 MS. SCHMELTZER: And I -- let, let me just say for
4 the record that it was filed during a period of time that
5 Richard J. Miller was the licensee of KRJY-FM.

6 JUDGE STEINBERG: As shown on the last --

7 MS. SCHMELTZER: As shown on --

8 JUDGE STEINBERG: -- page.

9 MS. SCHMELTZER: -- NAACP Exhibit 13 and, and the
10 last page.

11 JUDGE STEINBERG: Yeah, but --

12 MS. SCHMELTZER: It contains on the last page an
13 Affidavit of Richard J. Miller. Okay. It relates to the same
14 license term, which is specifically February 1, 1983, to
15 February 1, 1990, and it concerns a Petition to Deny alleging
16 EEO violations that was filed by the NAACP.

17 The second document is Church Exhibit -- that I
18 would like to have marked for identification as Church Exhibit
19 13 is a Commission Memorandum Opinion and Order and Notice of
20 Apparent Liability, FCC 92-548, directed to, among others,
21 among others, Communications Fund, Inc., the licensee of
22 KRJY-FM. Again, that was Mr. Miller's station at that time.
23 The document was released December 16, 1992, and it admonishes
24 the licensee of KRJY for -- to contact outside recruitment
25 sources for every vacancy. It also notes that the licensee

1 did not engage in affirmative recruitment efforts for 15 of
2 its 28 vacancies.

3 JUDGE STEINBERG: Okay.

4 MS. SCHMELTZER: We, we ask the --

5 JUDGE STEINBERG: Wait. That -- let me get that
6 identified. The document is 14 pages in length and it will be
7 marked for identification as Church Exhibit 13.

8 (Whereupon, the document referred to
9 as Church Exhibit No. 13 was marked
10 for identification.)

11 MS. SCHMELTZER: And we ask the Court to take
12 official notice of Church Exhibits 12 and 13. These are
13 surrebuttal to the, the stipulated Testimony of Richard J.
14 Miller.

15 JUDGE STEINBERG: Mr. Honig?

16 MR. HONIG: First, I would like a clarification
17 before I respond. Are these being offered to show the -- to
18 show that Mr. Miller doesn't -- isn't, isn't a credible wit-
19 ness or is to show bad motive or is it offered to show a lack
20 of competence? I, I don't understand --

21 MS. SCHMELTZER: Well --

22 MR. HONIG: -- the purpose of either exhibits.

23 MS. SCHMELTZER: A variety of reasons. For one
24 thing, Mr. Miller, in his Opposition to Petition to Deny, he
25 points to the sources that he thinks are the best source of

1 minority referrals.

2 JUDGE STEINBERG: This is in Section B beginning on
3 page 6 of --

4 MS. SCHMELTZER: That's correct.

5 JUDGE STEINBERG: -- No. 12.

6 MS. SCHMELTZER: That's correct.

7 JUDGE STEINBERG: I, I -- when I read this I noted
8 -- I was familiar with several of these sources.

9 MS. SCHMELTZER: Right. And --

10 JUDGE STEINBERG: Okay.

11 MS. SCHMELTZER: -- these are sources that KFUC used
12 during that license term, that we used the same sources,
13 namely the Broadcast Center and the St. Louis Post Dispatch.
14 Mr. Miller states in his Opposition that he attempted to
15 contact minority sources such as the NAACP and he says that
16 these particular contacts have not been fruitful. Here we
17 have the NAACP and Mr. Miller arguing that we should have
18 contacted additional minority sources. Mr. Miller also at-
19 taches to this documentation of his efforts, and they're --
20 the Opposition contains information which directly refutes the
21 statements that he has made in his testimony that was intro-
22 duced by the NAACP.

23 JUDGE STEINBERG: Mr. Honig?

24 MR. HONIG: First, let, let me speak to Church
25 Exhibit 12. Church Exhibit 12 is a pleading by -- and Mr.

1 Miller is not the licensee. Communications Fund, Inc., is the
2 licensee. It's a pleading from 1990 in another case which has
3 nothing to do with this case. The only possible use I can
4 think that it might have is just to prove that the Petition to
5 Deny was in fact opposed, but, but that fact is already noted
6 in Church Exhibit 13 and consequently, to the extent that it
7 has any value, it's redundant to 13. The arguments that have
8 been made as to what these exhibits show are all arguments
9 that go to, to Exhibit 13 rather than 12. So, I would ask
10 that 12 be rejected as, as superfluous.

11 JUDGE STEINBERG: Mr. Zauner?

12 MR. ZAUNER: Your Honor, may we have one moment?

13 JUDGE STEINBERG: I should note that Mr. Miller
14 sponsored the Opposition and, and he -- in his affidavit he
15 vouched for the facts contained therein. And obviously he
16 can't vouch -- we have the same problem with the -- this
17 Opposition that we do with the KFUE's Opposition in that we
18 have lawyers -- obviously lawyers preparing documents contain-
19 ing facts and some -- there are some legal arguments. But,
20 but to the extent that there are facts in there, he sponsored
21 them and he's sworn that they were true and correct.

22 MR. HONIG: That's right, and the point is that, if
23 you'd like additional argument on it, none of those facts have
24 to do with this case. None.

25 JUDGE STEINBERG: Wait.

1 MR. HONIG: They have to do with --

2 JUDGE STEINBERG: Well, I, I have to be candid with
3 you. When I read this I chuckled a bit because you presented
4 Mr. Miller as an expert witness -- am I right? -- an expert
5 witness --

6 MR. HONIG: No, not an expert.

7 JUDGE STEINBERG: Well, as a, as an experienced
8 broadcaster in St. Louis --

9 MR. HONIG: Yes.

10 JUDGE STEINBERG: -- familiar with the availability
11 of minorities for certain job positions.

12 MR. HONIG: Yes.

13 JUDGE STEINBERG: And here we've got the NAACP,
14 which I, I assume is you, challenging Mr. Miller's EEO efforts
15 on various grounds. I found that very interesting.

16 MR. HONIG: And let me --

17 JUDGE STEINBERG: Wait. Wait, wait, wait, wait.

18 MR. HONIG: Okay.

19 JUDGE STEINBERG: I don't need any, any comments.
20 So, we've got Mr. Miller making certain statements which may
21 be interpreted as, as critical of KFUE's efforts and -- and,
22 and I'm not talking about Section A of his Testimony. Section
23 A is basically how advertisers buy time. That's -- this
24 clearly is not addressed to that. This is addressed to
25 Section B.

1 And, and Mr. Miller is saying, "These days every
2 major broadcast company has managed to comply with the EEO
3 rule and doesn't rely on excuses." And here we've got Mr.
4 Miller in Opposition -- I'm not going to say relying on excus-
5 es, but making factual argument. Then we go through and we
6 see Mr. Miller argue, "Many positions..." -- this is on page
7 6. "Many positions were filled by former station interns."
8 Well, we've had testimony here that many positions at KFUD
9 were filled by former part-time students at Concordia
10 Seminary, part -- students at Concordia Seminary that -- there
11 are a couple, if I, if I remember correctly.

12 Then we have Mr. Miller using the Broadcast Center,
13 which I believe we have testimony that KFUD used the Broadcast
14 Center. Then we have Mr. Miller saying, "A third good source
15 of minority referrals was advertising in the St. Louis Post
16 Dispatch." And I, I -- didn't we have KFUD advertising in the
17 St. Louis Post Dispatch?

18 Then we went on to "Station contacted colleges and
19 minority organizations generally with regard to specific
20 openings." And we have a bunch of letters in Mr. Stortz's
21 Testimony, they were appended to Mr. Stortz's Testimony, that
22 they were sent by Mr. Lauher contacting colleges and minority
23 organizations. And, now, the organizations might be differ-
24 ent, but the -- I didn't check to see whether the
25 organizations were the same. I don't know that they were.

1 Then we have a very interesting sentence, "The
2 NAA..." Well, I'm not going to read that. You can read it.
3 "We've got other sources." Then we have Mr. Miller saying on
4 page 8, "The licensee filled 14 full-time positions without
5 active recruiting by consulting resumes on file." We have
6 lots of testimony concerning how people were hired through
7 resumes on file or seeking the recommendations of employees,
8 and we have had testimony that many employees were hired by
9 recommendations from other employees.

10 And I thought that this was all very, very inter-
11 esting and I think it is proper rebuttal to put in context the
12 statements that Mr. Miller was making in Section B of the
13 Testimony that was stipulated to.

14 So, I'm going to overrule your objection and I'm
15 going to receive Exhibit -- Church Exhibit 12. In any event,
16 I would take official notice of it. So, Church Exhibit 12 is
17 received.

18 (Whereupon, the document marked for
19 identification as Church Exhibit
20 No. 12 was received into evidence.)

21 JUDGE STEINBERG: And I didn't allow Mr. Zauner to,
22 to object if you want to.

23 MR. ZAUNER: No, Your Honor. We have no objection.

24 JUDGE STEINBERG: I -- so, Exhibit 12 is received.

25 I just found this a very --

1 MR. ZAUNER: Not that, that it would do much good at
2 this point in time.

3 (Laughter.)

4 JUDGE STEINBERG: Pardon me? What did you say?

5 MR. ZAUNER: Not that it would do much good at this
6 point in time.

7 JUDGE STEINBERG: Well, since I didn't give you an
8 opportunity to object, had, had you objected I would have
9 withdrawn my ruling and then considered your objection and
10 ruled.

11 MR. ZAUNER: There is no objection so no need to do
12 that.

13 JUDGE STEINBERG: Now, let's go to No. 13. Is 13
14 offered?

15 MS. SCHMELTZER: Yes, it is.

16 JUDGE STEINBERG: For official notice --

17 MS. SCHMELTZER: Yes.

18 JUDGE STEINBERG: -- purposes?

19 MS. SCHMELTZER: Yes.

20 JUDGE STEINBERG: This is, this is what happened as
21 a result of the Petition to Deny and the Opposition and --

22 MS. SCHMELTZER: That's correct.

23 JUDGE STEINBERG: Any, any objection to that?

24 MR. HONIG: Actually, I'm happy to have 13 come in
25 and would like to be permitted briefly to say why.

1 JUDGE STEINBERG: Okay. So, I can receive 13?

2 MR. HONIG: Yes, but I'd like to --

3 JUDGE STEINBERG: Okay. Mr. Zauner? Any objection
4 to 13?

5 MR. ZAUNER: The, the only thing the Bureau would
6 comment on in 13 is that it, it would be unnecessary because
7 it is a Commission order. It goes to -- referred to as such
8 in Proposed Findings and Conclusions, but --

9 JUDGE STEINBERG: Yeah, but look at -- yeah, but
10 look at my footnote that I read to Mr. Honig about official
11 notice. If you want official notice you mark it and introduce
12 it, and that's what they're doing.

13 MR. ZAUNER: But this is a case that, that anybody
14 can cite it --

15 JUDGE STEINBERG: That's fine.

16 MR. ZAUNER: -- in Conclusions --

17 JUDGE STEINBERG: No --

18 MR. HONIG: Yeah, but they would argue it -- not
19 that -- we have no --

20 JUDGE STEINBERG: Okay.

21 MR. HONIG: -- no real objection.

22 JUDGE STEINBERG: Just like "Seinfeld," a show about
23 nothing. It's a -- if you don't watch "Seinfeld," you have no
24 idea what that means. Okay. Exhibit 13 is received.

25 (Whereupon, the document marked for

1 identification as Church Exhibit

2 No. 13 was received into evidence.)

3 JUDGE STEINBERG: And now Mr. Honig is going to tell
4 us why he's happy 13 is coming in.

5 MR. HONIG: First, the, the salient paragraph is
6 paragraph 14 on page 6, which says, "We note, however, after
7 finding that the licensee..." in paragraph 13 "...generally
8 complied with our EEO rule, that unconditional grant of its
9 renewal application served the public interest, we note that
10 the licensee didn't engage in affirmative recruitment efforts
11 for 15 of his 28 vacancies. We acknowledge..." and then the
12 Commission goes on to acknowledge that Blacks were hired for
13 five of those 15 positions. "We thus admonish the licensee to
14 contact outside recruitment forces for (sic) -- sources for
15 every vacancy..." which is the only admonishment here.

16 JUDGE STEINBERG: Right.

17 MR. HONIG: There was no fine, short-term renewal
18 conditions. I might also add that before the Commission ruled
19 the NAACP withdrew its objection voluntarily without settle-
20 ment. And consequently what this shows in addition is that
21 Mr. Miller is obviously not testifying because he, because he
22 was our longtime friend or to hurt anyone else. He found
23 himself in the same shoes as this other licensee. Certainly
24 we were not someone that had never been an adversary of his.
25 And it says a lot --

1 JUDGE STEINBERG: Well, I'm not, I'm not suggesting
2 that he, that he was willing to testify because of any kind of
3 a deal. Please don't interpret anything I said --

4 MR. HONIG: Okay.

5 JUDGE STEINBERG: -- in that way.

6 MR. HONIG: Because there is none.

7 JUDGE STEINBERG: And I don't, I don't question what
8 you have said about Mr. Miller and, and his reasons for
9 wanting to testify, et cetera. But, I mean, I, I really have
10 to, I really have to admit, and I don't mind admitting and I
11 don't think it's prejudicial, that when I read Exhibit 12 I
12 chuckled to myself --

13 MS. SCHMELTZER: Your Honor, I would --

14 JUDGE STEINBERG: -- for the reasons that I have
15 said on the record. I --

16 MR. HONIG: Well, but I, I, I'm not worried about it
17 because I can button it up in Findings.

18 JUDGE STEINBERG: That's fine.

19 MR. HONIG: The, the cases are very, very different
20 and that's why in this footnote 1 the Commission said, "These
21 KFUE-AM and FM will be reviewed in a subsequent order." We
22 see what happened.

23 MS. SCHMELTZER: Your Honor, I would just ask Mr.
24 Honig to clarify something. According to this -- what I read
25 in the pleading here, it was the local branches that withdrew

1 | their Petition to Deny but not the national office.

2 | MR. HONIG: The local branch presidents withdrew
3 | their declarations. The Missouri --

4 | MS. SCHMELTZER: But not the national --

5 | MR. HONIG: The -- no, the Missouri State President,
6 | which is not -- which is a different unit, never got around to
7 | withdrawing her declaration, and that's why they had to rule.
8 | But in fact national and the branches ceased participating,
9 | but Mrs. Radcliffe in Columbia never got around to withdrawing
10 | her declaration, so they had to treat it as an informal
11 | objection. That's all it was.

12 | MS. SCHMELTZER: Well, can you tell me where in here
13 | it says that the national NAACP withdrew?

14 | MR. HONIG: Let me find it, because it -- I think it
15 | is there. Hold on one second.

16 | MR. ZAUNER: We might go to the document --

17 | MS. SCHMELTZER: I guess --

18 | MR. HONIG: All right. Footnote 2 --

19 | MR. ZAUNER: -- necessary to argue over the -- what
20 | the document states --

21 | MR. HONIG: Footnote 2 correctly states that counsel
22 | for NAACP, that's me and Herb Henderson, do not oppose its
23 | request for dismissal. Well, at the time I guess it was -- I
24 | don't know who it was.

25 | MS. SCHMELTZER: Well, it doesn't say you withdrew.

1 It says, "We find it appropriate to dismiss the Petition to
2 Deny and evaluate the challenge as an informal objection."

3 MR. HONIG: Well --

4 JUDGE STEINBERG: Well, let's, let's don't worry
5 about it.

6 MR. HONIG: Same thing. It's -- it, it was intended
7 as the same thing, Your Honor. I'll assert that.

8 JUDGE STEINBERG: Okay. Does that complete your
9 surrebuttal?

10 MS. SCHMELTZER: Yes, it does.

11 JUDGE STEINBERG: Okay. Any further requests?

12 MR. ZAUNER: Your Honor has received Exhibit 13?

13 MS. SCHMELTZER: Have you received Exhibit 13?

14 JUDGE STEINBERG: Yeah. I have, haven't I?

15 MR. ZAUNER: Yes.

16 JUDGE STEINBERG: Yes, I have. Okay. Anything
17 further? We, we have one thing outstanding, and that's the
18 Reed Miller deposition. I would ask that that be submitted to
19 me as soon as you get it --

20 MS. SCHMELTZER: Returning to --

21 JUDGE STEINBERG: -- in a joint request, and I will
22 issue an order identifying it and receiving it. The record --
23 I don't want to close the record -- well -- let me -- when,
24 when we finish today I'll close the record, and then when the
25 Reed Miller thing comes in just request that I reopen it for

1 the limited purpose of accepting the, the declaration.

2 The last item of business is -- wait a second.

3 MR. HONIG: Actually, I have one other question
4 but --

5 JUDGE STEINBERG: Okay. Proposed find-- dates for
6 Proposed Findings and Conclusions. Have you had an opportuni-
7 ty to reach agreement on those dates or do we have to squabble
8 and then I'll just squabble for a few minutes before I set
9 them? Let's go off the record.

10 (Off the record.)

11 (On the record.)

12 JUDGE STEINBERG: We're back on the record. While
13 we were off the record there really wasn't any agreement as to
14 the dates and I'm just setting them: August 26th for Proposed
15 Findings and Conclusions and September 19th for, for replies
16 thereto.

17 Let me just briefly state what would help me in your
18 Findings and Conclusions. I will -- and, and I'm putting this
19 on the record because when you -- before you start writing
20 them, flip to the last page and review what I'm saying. I
21 would like the Findings to be objective. By objective I mean
22 there are good facts from each Party's standpoint and there
23 are bad facts from each Party's standpoint. How -- include
24 both the good and the bad in your Findings. Now, you might
25 want to give more emphasis to the good and less emphasis to

1 the bad, but stick them in there and make them -- and don't
2 mix conclusion with fact. It's awful trying to write a set of
3 Findings -- an I.D. where the conclusions are all mixed up
4 with the facts so that -- by objective, that's what I mean by
5 objective. Don't mix the conclusions with the facts.

6 In the Conclusions what would be helpful to me is if
7 you recognize the bad facts and tell me why I shouldn't hold
8 that against you, whatever your position is. If you cite
9 cases, I would prefer that they be current, not overruled, you
10 know, minor things like that. I prefer that the citations be
11 correct so that -- I do read the cases and I like to know
12 where to find them, and I, you know, I will go digging for
13 them, but I don't much appreciate it when a citation is wrong.
14 Now, I recognize typos crop up and there's not a darn thing
15 you can do about that.

16 Same thing with transcript, references to the
17 transcript, to the exhibits. If they're inaccurate and I
18 can't find them, you've lost that point. If I happen to find
19 it later looking for something else -- but, but that's what I
20 like in Findings and Conclusions.

21 Everyone knows the strong points of their case and
22 everyone knows the weak points of their case. And I want you
23 to write Findings about them and then address them in
24 Conclusions and persuade me that I should diminish the value
25 of the, of the weak -- of the bad facts and increase the value

1 of the good facts. So, replies -- I find replies extraordi-
2 narily helpful if they're done the way I'm going to suggest.
3 I don't want reargument of everything.

4 What I would like you to do is say: Mass Media
5 Bureau, paragraph X, the Bureau states this. This is inaccu-
6 rate because document this says that. Cross-examination he
7 said this. There's no redirect except from Mr. Stortz so you
8 can't refer to redirect. But, you know, boom, boom, boom,
9 boom. This is wrong because. Citation. That's wrong be-
10 cause. Citation. This legal argument is wrong. This case is
11 distinguishable. This case was overruled. The Commission
12 later did this. The Commission did that. That's a -- I find
13 that immensely helpful, immensely helpful, and I, and I'll
14 tell you, I rely on it. And what's not helpful is just a
15 general rehash of your whole position. You know, if you make
16 it sharp, to the point -- and if, if you want to nitpick,
17 nitpick away.

18 And that is the most helpful to me. The, the more
19 complete, the more accurate your Findings and Conclusions are,
20 frankly the easier my -- the, the easier my job is and the
21 quicker an I.D. you'll get. The problem with Vancouver, it
22 took almost a year, we had 10 sets of Findings, very few of
23 them -- yeah, very, very few of them were accurate, complete,
24 organized, et cetera, et cetera, et cetera, and I wrote essen-
25 tially that whole darn thing from scratch, 100-and-something

1 pages single-spaced.

2 MR. HONIG: And then the Commission threw out the
3 Bechtel (phonetic sp.) decision.

4 JUDGE STEINBERG: No, the Court did. Thank the Lord
5 I signed off -- I signed off on it on -- in December 6th or
6 something. Bechtel came out a week later and it was released
7 a week later, and I said I don't care. It's 9 FCC Record page
8 1, so that they led off Volume 9 with quality material, and I
9 like to think that that was intentionally done, that someone
10 made the, made the determination that hey, this would be a
11 good one. If somebody, somebody wants to pick a volume, I
12 will start them off with something good. Mr. Honig would
13 totally disagree with that, as he said the first day of the
14 hearing.

15 MR. HONIG: No. It was quality material even though
16 it was incorrectly decided.

17 JUDGE STEINBERG: Okay. Okay. In your opinion,
18 your state of mind. Okay.

19 MR. HONIG: That's my state of mind.

20 JUDGE STEINBERG: Is, is there anything else that we
21 need to do today?

22 MR. ZARAGOZA: I think --

23 JUDGE STEINBERG: Mr. Zaragoza?

24 MR. ZARAGOZA: -- just on behalf of the Church,
25 Reverend Paul Devantier wanted me to thank you for allowing

1 him to be here for two reasons: one, so he could help with
2 the course of the litigation, give any advice to help any
3 decision-making, but also so he could take him a very personal
4 experience, not one that he perhaps was most joyful about in
5 going through, but it gave him a firsthand knowledge that he
6 could take back to the Church, and that's very much
7 appreciated.

8 JUDGE STEINBERG: Okay. Thank you.

9 MR. ZARAGOZA: And we thank all the Parties for
10 their patience throughout.

11 JUDGE STEINBERG: Thank you. Okay. With that I'll
12 close the record with the understanding that it will be re-
13 opened for the receipt of the Reed Miller deposition and I, I
14 thank you all very much. Mr. Honig, you had one question?

15 MR. HONIG: I just had one question about Findings.
16 I know judges differ on this. Suppose there is an exchange
17 back and forth in which testimony is elicited and comes in.
18 It's, it's oral testimony but it comes in through the discus-
19 sion of an exhibit which subsequently is rejected. Does Your
20 Honor want, if, if reliance is made on the oral exchange of
21 testimony, a footnote noting that the underlying exhibit has
22 been rejected or is it --

23 JUDGE STEINBERG: My opinion about that is do what
24 you think is best. It's -- if that's the situation, it's only
25 fair to note that the exhibit was rejected.

1 MR. HONIG: Okay.

2 JUDGE STEINBERG: I mean, it's only -- it's --
3 that's just -- it's fair to, it's fair to note that. It
4 depends on the testimony. Just because the -- as Ms. Laden
5 said, she can ask questions about an exhibit even though it
6 was rejected, and the, and the testimony might be perfectly
7 valid even though the underlying exhibit was rejected for
8 various and sundry reasons --

9 MR. HONIG: Okay.

10 JUDGE STEINBERG: -- and probably correct reasons.

11 MS. SCHMELTZER: May I ask do you like summaries or
12 not?

13 JUDGE STEINBERG: I don't care. If you don't know
14 -- I don't read them. I, I read them, but who cares.

15 MR. ZAUNER: -- waive the ruling.

16 JUDGE STEINBERG: You -- well, I'll waive the rule.
17 You don't have to put a summary. And that, you know, that'll
18 save you a page or two. And I'll, I'll --

19 MR. ZAUNER: I mean, it's useless.

20 JUDGE STEINBERG: Yeah, I mean, you want to do it,
21 do it. If you put it in, I guarantee I'll read it, but it's
22 not going to show up in the I.D. So, if you want, it's
23 waived. If you -- if -- it's waived. Okay. How about that?

24 MR. HONIG: No page limit?

25 JUDGE STEINBERG: No page limit. I haven't -- it --

1 I haven't gotten into a case where anybody's done too much,
2 except one or two. I would, I would prefer short, and I know
3 short is a lot harder to write than longer. So, if -- you
4 know, if you write long and then can edit it down, that would
5 be great, but, you know, use your judgment. You know. That's
6 all.

7 Anything more? Okay. I, I thank you all and,
8 again, the record is closed except for the Reed Miller matter,
9 and have a good life.

10 (Whereupon, at 5:22 p.m. on Friday, June 24, 1994,
11 the record was closed.)

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CERTIFICATE OF REPORTER, TRANSCRIBER, AND PROOFREADER

IN RE APPLICATIONS OF CLAYTON, MISSOURI

Name

MM DOCKET NO. 94-10

Docket No.

WASHINGTON, D.C.

Place

JUNE 24, 1994

Date

We, the undersigned, do hereby certify that the foregoing pages, numbers 896 through 1117, inclusive, are the true, accurate and complete transcript prepared from the reporting by BARBARA J. LORD in attendance at the above identified proceeding, in accordance with applicable provisions of the current Federal Communications Commission's professional verbatim reporting and transcription Statement of Work and have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the proceeding and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the proceeding.

July 5, 1994

Date

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